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भारत का राजपत्र

The Gazette of India

असाधारण
EXTRAORDINARY

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PART II—Section 2

प्रांधिकार से प्रकाशित

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इस भाग में विशेष पृष्ठ संख्या दो जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 7th September, 1990:—

BILL NO. 63 OF 1990

A Bill further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1990.

Short title.

2. In section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), in sub-section (1), the words "not exceeding five hundred rupees in the whole," shall be omitted.

Amend-
ment of
section
125.

3. In section 127 of the principal Act, the proviso to sub-section (1) shall be omitted.

Amend-
ment of
section
127.

STATEMENT OF OBJECTS AND REASONS

Section 125 of the Code of Criminal Procedure, 1973, expresses the genuine and deep concern of the society for the welfare and protection of the legitimate economic rights of the neglected wife, children and parents to claim maintenance. In order to make it more just and effective and to subserve the purpose of the legislation, the proposed amendment in the Act is necessary. The statutory ceiling of Rs. 500/- in favour of the wife, children and the parents from a person who, having sufficient means, neglects or refuses to maintain his family members deserves to be removed. The limit of maintenance fixed has become irrelevant by reasons of rise in the cost of living and imposition of such a statutory ceiling results in injustice and defeats the purpose for which the provision has been made. Besides, incorporating a statutory ceiling which cannot be updated without amending the law from time to time is impracticable and unnecessary. Consequential amendment is also necessitated in section 127 of the Code of Criminal Procedure. The Law Commission of India also made a similar recommendation to this effect *vide* its 132nd Report of 1989.

Hence this Bill.

NEW DELHI;
April 11, 1990.

NATHU SINGH.

BILL No. 109 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990. Short title.
2. In article 371 of the Constitution, in clause (2), in sub-clause (a), for the word "Marathwada.", the words "Marathwada, Konkan," shall be substituted. Amend-
ment of
article 371.

STATEMENT OF OBJECTS AND REASONS

For years, the Konkan region in the Maharashtra State has remained backward and under-developed. Unless a separate development board is set up for the Konkan region, it will not secure adequate opportunity and investment for its development. This Bill seeks to provide for setting up of a separate development board for the backward 'Konkan' region of the Maharashtra State.

NEW DELHI;

VAMANRAO MAHADIK

May 18, 1990.

BILL NO. 132 OF 1990

A Bill to establish and incorporate a teaching and affiliating University in the State of Bihar and to provide for matters connected therewith on incidental thereto.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|-------------------------------|
| 1. (1) This Act may be called the Mahatma Gandhi University Act, 1990. | Short title and commencement. |
| (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | |
| 2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,— | Definitions. |
| (a) “Academic Council” means the Academic Council of the University; | |
| (b) “academic staff” means such categories of staff as are designated as academic staff by the Ordinances; | |

- (c) "Board of Studies" means the Board of studies of the University;
- (d) "Chancellor" and "Vice-Chancellor" mean, respectively, the Chancellor and Vice-Chancellor of the University;
- (e) "College" means a College maintained by, or admitted to the privileges of, the University;
- (f) "Court" means the Court of the University;
- (g) "Department" means a Department of Studies and includes a Centre of Studies;
- (h) "Director" means any of the Directors referred to in section 13;
- (i) "employee" means any person appointed by the University and includes teachers and other staff of the University;
- (j) "Executive Council" means the Executive Council of the University;
- (k) "Hall" means a unit of residence or of corporate life for the students of the University, College or Institution, provided, maintained or recognised by the University;
- (l) "Institution" means an academic institution, not being a College, maintained by, or admitted to the privileges of the University;
- (m) "Principal" means the Head of a College or an Institution, and includes where there is no Principal, the person for the time being duly appointed to act as Principal, and, in the absence of the Principal or acting Principal, a Vice-Principal duly appointed as such;
- (n) "recognised institution" means an institution of higher learning recognised by the University;
- (o) "recognised teachers" means such persons as are recognised by the University for the purpose of imparting instruction in a College or an Institution admitted to the privileges of the University;
- (p) "School" means a School of Studies of the University;
- (q) "Statutes", "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;
- (r) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction, or conducting research in the University or in any College or Institution maintained by University and are designated as teachers by the Ordinances;
- (s) "University" means the Mahatma Gandhi University.

3. (1) There shall be established by the Central Government a University by the name of "Mahatma Gandhi University".

(2) The Headquarters of the University shall be at Motihari Nagar of East Champaran district in the State of Bihar and it may also establish campuses at such other places within its jurisdiction as it may deem fit.

(3) The first Chancellor and the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Mahatma Gandhi University".

(4) The university shall have a perpetual succession and a common seal and shall sue and be sued by the said name.

4. The objects of the University shall be to disseminate and advance knowledge by providing instructional and research facilities in such branches of learning as it may deem fit and by the example of its corporate life and in particular, to make special provisions for studies in rural development and to take appropriate measures for promoting inter-disciplinary studies and research in the University.

5. The University shall have the following powers, namely:—

Objects.

Powers
of the
Univer-
sity.

(1) to provide for instruction in such branches of learning as the University, may, from time to time, determine and to make provision for research and for the advancement and dissemination of knowledge;

(2) to provide for and organise studies in rural development;

(3) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degree or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(4) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(5) to institute Principalships, Professorships, Readerships, Lecturerships and other teaching or academic posts required by the University and to appoint persons to such Principalships, Professorships, Readerships, Lecturerships or other posts;

(6) to recognise an Institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(7) to appoint persons working in any other university or organisation as teachers of the University for a specified period;

(8) to create administrative, ministerial and other posts and to make appointments thereto;

(9) to establish such campuses, special centres, specialised laboratories or other units for research and instruction as are, in the

opinion of the University, necessary for the furtherance of its objects;

(10) to institute and award fellowships, scholarships, studentships, medals and prizes;

(11) to establish and maintain Colleges, Institutions and Halls;

(12) to make provision for research and advisory services; and for that purpose to enter into such arrangements with other institutions or bodies as the University may deem necessary;

(13) to declare a College, an Institution or a Department as an autonomous College or an Institution or a Department, as the case may be;

(14) to determine standards for admission into the University which may include examination, evaluation or any other method of testing;

(15) to demand and receive payment of fees and other charges;

(16) to make special arrangements in respect of women students as the University may consider desirable;

(17) to regulate and enforce discipline among the employees and students of the University and take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(18) to make arrangements for promoting the health and general welfare of the employees;

(19) to receive donations and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(20) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(21) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the University.

6. The jurisdiction of the University shall extend to the whole of the State of Bihar.

University open to all classes, castes and creed.

7. The University shall be open to the persons of either sex and belonging to race, creed, caste, or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted therein, as a teacher or student, or to hold any office therein, or to graduate thereat.

Provided that nothing in this section shall be deemed to prevent the University from making provisions for the weaker sections of the people and, in particular, of the Scheduled Castes and Scheduled Tribes.

8. The President of India shall be the Visitor of the University.
9. The Governor of the State of Bihar shall be Chief Rector of the University.
10. The following shall be the officers of the University:—
- (a) The Chancellor;
 - (b) The Vice-Chancellor;
 - (c) The Director of Studies, Educational Innovations and Rural reconstruction;
 - (d) The Director of Culture and Cultural Relations;
 - (e) The Director of Physical Education, Sports, National Service and Students Welfare;
 - (f) The Deans of Schools;
 - (g) The Registrar;
 - (h) The Finance Officer; and
 - (i) Such other officers as may be declared by the Statutes to be officers of the University.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice Chancellor under this sub-section shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive

Visitor.

Chief Rector.

Officers of the University.

The Chancellor.

The Vice-Chancellor.

Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor shall exercise such other powers and perform such other functions as may be prescribed by the Statutes or Ordinances.

Directors.

13. The Directors shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Deans of Schools.

14. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

15. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such other powers and perform such other duties as may be prescribed by the Statutes.

The Finance Officer.

16. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other Officers.

17. The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

18. The following shall be the authorities of the University:—

- (a) The Court;
- (b) The Executive Council;
- (c) The Academic Council;
- (d) The Boards of Schools;
- (e) The Planning Board; and

(f) Such other authorities as may be declared by the Statutes to be authorities of the University.

The Court.

19. (1) The Constitution of the Court and the term of office of its members shall be prescribed by the Statutes.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by Statutes.

20. (1) The Executive Council shall be the principal executive body of the University.

The Executive Council.

(2) The constitution of the Executive Council, the terms of office of its members and its powers and duties shall be prescribed by the Statutes.

21. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and ordinances made thereunder, co-ordinate and exercise general supervision over the academic policies of the University.

The Academic Council.

(2) The constitution of the Academic Council, the term of office of its members and its powers and duties shall be prescribed by the Statutes.

22. (1) There shall be constituted in the University, a Planning Board which shall be an authority of the University.

The Planning Board.

(2) The constitution of the Planning Board, term of office of its members and its powers and duties shall be prescribed by the Statutes.

23. The Constitution, powers and functions of the Boards of Schools and of such other authorities, as may be declared by the Statutes to be authorities of the University, shall be prescribed by the Statutes.

Other authorities of the University.
Power to make Statutes.

24. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of the authorities and other bodies of the University as may be constituted from time to time;

(b) the election and continuance in office of the members of the said authorities and bodies, the filling of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers of the University and other academic staff and their emoluments;

(e) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(f) the procedure for arbitration in cases of dispute between employees or students and the University;

(g) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(h) the conferment of honorary degree;

(i) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

25. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the awarding of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the conditions of award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the terms of office and of appointment and the duties of examining bodies, examiners and moderators;

(h) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;

(i) the establishment of Centres of Statutes, Boards of Studies, Special Centres, specialised laboratories and other Committees;

(j) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(k) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(l) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(m) the management of Colleges and Institutions established by the University;

(n) the supervision and management of Colleges and Institutions admitted to the privileges of the University; and

(o) all other matters which by this Act or the Statutes may be provided for by the ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

26. The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the committees appointed by them and not provided for by this Act, the Statutes or the Ordinances in the manner prescribed by the Statutes.

Regula-
tions.

27. (1) The annual accounts and balance-sheets of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India.

Annual
Accounts.

(2) A copy of the annual accounts, together with the report of the Comptroller and Auditor-General, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

28. No suit or other legal proceedings shall lie against any officer or employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protect-
tion of
action
taken in
good
faith.

29. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
diffi-
culties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

30. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

Statutes,
Ordi-
nances
and Regu-
lations
to be
published
in the
Official
Gazette
and
to be
laid
before
Parlia-
ment.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the Session immediately following the Session or the successive Sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

STATEMENT OF OBJECTS AND REASONS

The State of Bihar is economically and educationally very backward. This backwardness is prevailing particularly in the rural areas. The people of Bihar are in need of a Central University for quite a long time which may concentrate in its research and studies in rural development. The rural upliftment was the dream of the father of the nation Mahatma Gandhi, who had started the freedom struggle from the District of East Champaran in the State of Bihar. Moreover, there is no university in the name of Mahatma Gandhi in our country. If a Central University is established in the name of the father of the nation, it will be a humble homage to him in the eyes of the world. If a rural oriented Central University is established in Bihar this dream will come true.

Hence this Bill.

NEW DELHI;
July 18, 1990.

RADHA MOHAN SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a Central University in the State of Bihar. For the establishment of the University the estimated expenditure would be approximately Rs. 25 crores on non-recurring items spread over a period of ten years and Rs. 5 crores on recurring items for five years. The expenditure involved will be met by the University Grants Commission from its plan allocation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill empowers the Executive Council of the University to make new or additional statutes. Clause 25 of the Bill empowers the Vice-Chancellor to make the first ordinances of the University. Clause 26 of the Bill enables the authorities of the University to make regulations for the conduct of their business and that of the committees appointed by them. The matters for which statutes, ordinances or regulations may be made pertain to matters of procedure or detail and it is hardly possible to provide for them in the Bill. The delegation of legislative powers is of a normal character.

BILL NO. 139 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. In article 84 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

Amendment of article 84.

“(b) is, in the case of a seat in the Council of States, not less than thirty years of age and not more than sixty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age and not more than sixty years of age; and”.

3. In article 173 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

Amendment of article 173.

“(c) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and not more than sixty years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age and not more than sixty years of age; and”.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India lays down the maximum age limit for the Judges of the Supreme Court and High Courts, Members of the Union Public Service Commission, etc. But there is no maximum age limit prescribed for the Members of Parliament or of State Legislatures.

The Bill seeks to amend articles 84 and 173 of the Constitution with a view to prescribe maximum age limit for the Members of Parliament and the State Legislatures.

NEW DELHI;

July 30, 1990.

Y. S. RAJASEKHAR REDDY

BILL NO. 148 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|--------------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1990. | Short title. |
| 2. (1) In article 343 of the Constitution,— | Amend-
ment of
article
343. |
| (i) in clause (1), for the words “the international form of Indian numerals”, the words “the Devanagari form of numerals” shall be substituted; | |
| (ii) in clause (2), in the proviso, for the words “and of the Devanagari form of numerals in addition to the international form of Indian numerals”, the words “and of the international form of Indian numerals in addition to the Devanagari form of numerals” shall be substituted; | |
| (iii) in clause (3), for sub-clause (b), the following sub-clause shall be substituted, namely:— | |
| “(b) the international form of Indian numerals.”, | |

Amend-
ment of
article
348.

3. In article 348 of the Constitution,—

(i) in clause (1),—

(a) for the words "shall be in the English language.", the words "shall be in the Hindi Language in Devanagari script:" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that the President may, by order, authorise the use of the English language for any of the purposes.";

(ii) for clause (2), the following clause shall be substituted, namely:—

"(2) Notwithstanding anything in clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of any other language in the State for any official purposes or for any of the purposes mentioned in clause (1).";

(iii) for clause (3), the following clause shall be substituted, namely:—

"(3) Where, under the provisions of clause (2), the Governor of a State has authorised the use of any language other than the Hindi language in Devanagari script for use in Bills introduced in, or Acts passed by the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law, a translation of the same in the Hindi language in Devanagari script or in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the Hindi language in Devanagari script or in the English language, as the case may be, under this article.".

STATEMENT OF OBJECTS AND REASONS

The Constituent Assembly while giving its seal of approval to the present Constitution foresaw the continuation of English language for official purposes for a period of fifteen years from the commencement of the Constitution of India. But the English language, even after forty years of the commencement of the Constitution, is sitting like an octopus over Hindi, the official language of the Union and other languages of our country. This naturally, hinders the development of various languages and also hampers wider and broadbased active participation by our people in the democratic, administrative and judicial processes of the country.

Hence, it is high time that Hindi, our official language, gets its due place in our judicial, legislative and administrative processes. But keeping in view the required progress made in this direction so far, it will be impractical to abolish English in one sweep. Therefore, there is need to continue the use of English language to the extent necessary and unavoidable till the time Hindi is accepted voluntarily by our multilingual nation.

Similarly, while continuing the use of the international form of Indian numerals to the extent necessary the Devanagari form of numerals also must get the precedence.

Hence this Bill.

NEW DELHI;
July 30, 1990.

BHOGENDRA JHA.

BILL No. 150 OF 1990

A Bill to provide for a comprehensive policy for the development of the youth in the country.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Youth Welfare Act, 1990.
- (2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union territory, the Union Government;
- (b) 'youth' means all persons between fifteen and twenty-eight years of age;
- (c) 'youth organisation' means an organisation of youth which provides for universal membership, without any discrimination on the basis of race, religion, language, caste or sex and the constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

Compulsory and free educational facilities.

3. The appropriate Government shall provide to the youth—

- (a) Compulsory and free education including technical medical education;
- (b) free hostel facilities;

- (c) materials like books, note-books, stationery, etc. free of cost;
- (d) scholarships to deserving students; and
- (e) military training to deserving students.

4. (1) The youth shall have representation in the management or advisory boards at all levels of administration for schools as well as in institutions of higher and specialised education.

(2) Students unions shall be formed in all educational institutions through elections by secret ballot.

Partici-
pation of
youths in
manage-
ment or
adminis-
tration of
schools,
etc.

5. The appropriate Government shall provide—

- (a) facilities to the youth for participation in sports activities both inside and outside the country and finances to sports organisations to be used for supply of sports material to the youth;
- (b) representation to youth organisations in sports associations and bodies; and
- (c) for the welfare of the sports persons, who represent the country in any event for their life time.

Sports
facilities.
to youths.

6. The appropriate Government shall provide nutritious meals free of cost to all the students in schools, colleges and universities.

Provision
of nutri-
tious
meals in
schools,
etc.

7. The appropriate Government shall provide medical and health care to the youth free of cost.

Medical
care to the
youth.

8. The appropriate Government shall evolve a scheme under which young girls and boys shall be provided training in modern apprenticeship trades, vocations, etc. in factories and vocational institutions.

Training
of youths
in trade,
vocation,
etc.

9. The appropriate Government shall appoint expert committees in every district consisting of eminent educationists, doctors, psychologists and agriculturists to recommend the type of education or training in any avocation that is to be imparted to a boy or a girl of the district after he or she has passed the tenth class examination.

Appoint-
ment of
expert
com-
mittees.

10. The appropriate Government shall provide proper and gainful employment to the youth after their training or unemployment allowance, as may be prescribed, in lieu thereof, till they are provided employment.

Provision
of employ-
ment.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

Even after four decades of independence, no clear-cut youth policy has been laid down in our country so far. As the right to vote has been extended to the youths who are above 18 years of age, it is high time that there is a youth policy for their proper development and utilisation in the country. In this context, it is utmost important to start a powerful, well planned reform movement under comprehensive youth policy and to implement it in order to wean away the youth from backward feudal ideology, connected with the colonial era, and to fight against fanaticism, fundamentalism and separatism. The education should be the right of the youth and not a privilege of a few and employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between rural and urban youth should be eliminated gradually. The youth today is also facing serious health problems, absolute inadequacy in sports and cultural facilities. Youth belonging to Scheduled Castes, Scheduled Tribes and other backward classes are still reeling under poverty. As there is no proper planning for the youth, their comprehensive development and proper utilisation of their energies, they are heading towards terrorism and extremism.

A comprehensive youth policy is, therefore, absolutely necessary. Hence this Bill.

NEW DELHI;

RAMASHRAY PRASAD SINGH.

July 31, 1990.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education to all youth. It also provides for scholarships, military training and medical and technical education to deserving students. Clause 5 provides that the appropriate Government shall provide facilities to youths for their participation in sports activities and finance sports federations. It also provides for the welfare of sports persons. Clause 6 provides that the appropriate Government shall provide nutritious diet to all students in schools, colleges and universities. Clause 7 provides for regular supervision of health and medical care of the youth by the appropriate Government. Clause 8 provides that the appropriate Government shall evolve a scheme under which youth will be given training in factories or vocational institutions. Clause 9 provides for appointment of expert committees to recommend the type of education that is to be imparted to youths. Clause 10 provides that the appropriate Government shall be responsible for providing employment to all youths or unemployment allowance, as may be prescribed, till they are provided employment.

The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in respect of Union territories. An annual recurring expenditure of about rupees one hundred and fifty crores is likely to be incurred.

A non-recurring expenditure of about rupees two and a half crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 146 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990. Short title.

2. For article 57 of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 57.

“57. A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office for not more than one term.”. Eligibility for re-election.

STATEMENT OF OBJECTS AND REASONS

The office of the President being the highest office in the country, utmost care has to be taken to maintain its dignity and status. As per the provisions of article 57 of the Constitution, a person who is holding or who has held the office of the President is eligible for re-election to the office of the President. In some democratic countries there are restrictions on the re-election of the same person to the office of the Head of the State beyond a certain specified period. This enhances the image and status of this high office.

Therefore, in order to maintain the image and dignity of the office of the President of India, as also the high traditions of democracy, it is necessary to amend the Constitution to put a restriction on the number of terms a person should hold the office of the President of India. This provision will enable the incumbent to discharge his onerous duties with dignity and honour.

Hence this Bill.

NEW DELHI;
July 31, 1990.

RAMASHRAY PRASAD SINGH

BILL NO. 149 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. In the Eighth Schedule to the Constitution, entries 3 to 15 shall be re-numbered as entries 4 to 16 respectively, and before entry 4 as so re-numbered, the entry "3. Dogri." shall be inserted.

Amend-
ment of
Eighth
Sche-
dule.

STATEMENT OF OBJECTS AND REASONS

Dogri is spoken by most of the people in Jammu and Kashmir. It is the language of the 'Dogras' who not only live in Jammu but also in the Kashmir Valley, Himachal Pradesh, Delhi, Punjab and many other parts of the country.

As the Government of Jammu and Kashmir has also introduced Dogri language as a subject in educational institutions, it is essential that Dogri language is included in the Eighth Schedule to the Constitution of India.

Hence this Bill.

NEW DELHI:

JANAK RAJ GUPTA

August 3, 1990.

BILL NO. 154 OF 1990

A Bill to consolidate laws relating to forests, the transit of forest-produce and to make special provisions for the regulation of felling and replanting of trees in urban and rural areas and sandalwood, and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Forest Act, 1990.

Short title, extent and commencement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of

this Act shall be construed as a reference to the coming into force of that provision in relation to such State to which this Act has been brought into force.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(i) "cattle" means cows, oxen and bulls and includes elephants, camels, buffaloes, horses, mares geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, yak and fowls;

(ii) "Divisional Forest Officer" means the Forest Officer in charge of territorial Forest Division or a Forest Officer having jurisdiction over a portion or portions of one or more such divisions when constituted into a Forest Division for any special purpose;

(iii) "forest" includes any land containing trees and shrubs, pasture lands and any land whatsoever which the State Government may by notification declare to be forest for the purpose of this Act.

(iv) "forest offence" means an offence punishable under this Act or under any rule made thereunder;

(v) "Forest Officer" means any person whom the State Government or any officer empowered by the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer;

(vi) "forest produce" includes—

(a) the following whether found in, or brought from, a forest or not, that is to say—

(i) timber, charcoal, caoutchoue, catachu, wood-oil, gum, resin, natural varnish, bark, lac;

(ii) mahua flowers, mahua seeds, kuth, myrabolams, tendu leaves;

(iii) wild animals, skins, tusks and horns and all other parts or produce of wild animals;

(b) The following when found in, or brought from, a forest, that is to say—

(i) plants not being trees (including grass, creepers, orchids and moss), and all parts or produce of such plants;

(ii) trees, leaves, flowers, fruits, latex and all other parts or produce of trees not here-in-before mentioned;

(iii) silk, cocoons, honey and wax;

(iv) peat, humus, surface soil, rock, and minerals (including lime-stone, sand, laterite mineral oils, and all products of mines or quarries);

(v) standing agricultural crops and produce thereof;

(c) such other produce as the State Government may, by notification in the Official Gazette, specify from time to time;

(vii) "land includes river or any water-body;

(viii) "owner" in relation to a forest, includes a mortgage with possession, losses or other person having right to the possession and enjoyment of the forest, and a Court of Wards in respect of property under the superintendence or charge of such Court;

(ix) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, by the State Government;

(x) "Revenue Officer" means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith;

(xi) "river" includes any stream, canal, creak or other channels, natural or artificial;

(xii) "rural area" means any area which is not an "urban area";

(xiii) "timber" includes trees when they have fallen or have been felled or uprooted and all wood whether cut up or fashioned or hollowed out for any purposes or not;

(xiv) "tree" includes palms, bamboos, reeds, stumps, brushwood and canes;

(xv) "urban area" means an area which is included within the limits of a Municipal Corporation, Municipality, Notified Area Committee, Town Area Committee, Cantonment Board or of a Development Authority.

CHAPTER II

RESERVED FORESTS

3. The State Government may constitute any land which is the property of that Government, or over which it has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

Power to
reserve
forests.

4. (1) Whenever it has been decided to constitute any land a reserved forest, the State Government shall issue a notification in the Official Gazette—

(a) declaring that it has been decided to constitute such land a reserved forest;

(b) specifying, as nearly as possible, the situation and limits of such land; and

(c) appointing an officer (hereinafter called the Forest Settlement Officer) to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation.—For the purpose of clause (b), it shall be sufficient to describe the limits of the land by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest office except that of Forest Settlement-Officer:

Provided that a forest officer may be appointed by the State Government to represent it in the inquiry conducted under this Chapter by the Forest Settlement Officer.

(3) Nothing in this section shall prevent the State Government from appointing any number of officers not exceeding three and not more than one of whom shall be a person holding any forest office except as aforesaid, to perform the duties of a forest Settlement Officer under this Act.

Bar on accrual of fresh rights and prohibition of certain acts.

5. (1) After the issue of a notification under section 4,—

(a) no rights shall be acquired in or over the land comprised in such notification except by succession or under a grant of contract in writing made or entered into by or on behalf of the State Government or some person in whom such right was vested when the notification was issued;

(b) no new house shall be built or plantation formed, no fresh clearing nor breaking up of land for cultivation or for any other purpose shall be made on such land nor any tree therein felled, girdled, chopped, tapped or burnt or its bark or leaves stripped off, or the same otherwise damaged, nor any forest produce removed therefrom except in accordance with such rules as may be made by the State Government in this behalf:

Provided that nothing shall prohibit the doing of any act specified in this clause with the permission in writing of the Forest Settlement Officer; and

(c) no person shall set fire or kindle or leave burning any fire in such manner as to endanger or damage such land or forest produce.

(2) No patta in such land shall be granted by on behalf of the State Government.

(3) Save as otherwise provided in this Act, no civil court shall, between the dates of publication of the notification under section 4 and under section 20, entertain any suit to establish any right in or over any land included in forest produce of any land included in the notification published under section 4.

Proclamation by Forest Settlement Officer.

6. When a notification has been issued under section 4, the Forest Settlement Officer shall publish in the local language in every town and village in the neighbourhood of the land comprised therein a proclamation —

(a) specifying, as nearly as possible the situation and limits of the proposed reserved forest;

(b) explaining the consequences which, as hereinafter provided will ensue on the constitution of such reserved forest and;

(c) fixing a period of not less than three months and not more than six months from the date of such proclamation, and requiring

every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement Officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. (1) The Forest Settlement Officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Inquiry
by Forest
Settle-
ment
Officer.

(2) The Forest Settlement Officer shall record and consider any representation which the Forest Officer in any representing the State Government may make in respect of any such claim or objection thereto.

8. For the purpose of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say,—

Powers
of Forest
Settle-
ment
Officer.

(a) power to enter by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same, and

(b) the powers of a civil court in the trial of suits.

9. Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

Extinc-
tion of
rights.

10. (1) The claims relating to the practice of shifting cultivation shall not ordinarily be entertained except as hereinafter provided.

Treat-
ment of
claims
relating
to the
Practice
of shifting
cultiva-
tion.

(2) In the case of a claim relating to the practice of shifting cultivation, which if entertained, the Forest Settlement Officer shall record a statement setting forth the particulars of the claim and of any local rules or order under which the practice is allowed or regulated, and submit the statement to the State Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(3) On receipt of the statement and opinion, the State Government may make an order permitting or prohibiting the practice wholly or in part.

(4) If such practice is permitted wholly or in part, the Forest Settlement Officer may make the following arrangements for compliance:—

(a) By altering the limits of the land under settlement so as to exclude land of sufficient extent of a suitable kind, and in a locality reasonably convenient for the purpose of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated and giving permission to the claimants

to practice shifting cultivation therein under such conditions as he may prescribe.

(5) All arrangements made under sub-section (4) shall be subject to the previous sanction of the State Government.

(6) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the State Government.

Power to acquire land over which right is claimed.

11. (1) In the case of a claim to a right in or over any land, other than a right of way or right of pasture, or a right to forest produce or a watercourse, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Forest Settlement Officer shall either—

(i) exclude such land from the limits of the proposed reserved forest; or

(ii) come to an agreement with the owner thereof for the surrender of his rights; or

(iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894.

1 of 1894.

(3) For the purpose of so acquiring such land—

(a) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894;

1 of 1894.

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(c) the provisions of that Act shall be deemed to have been complied with; and

(d) the Collector, with the consent of the claimant, or the Court, or with the consent of both parties, may award compensation in land or partly in land and partly in money.

Orders on claim to rights of pasture or to forest-produce or a right of way or water-course.

Record to be made by Forest Settlement Officer.

12. In the case of a claim to rights of pasture or to forest-produce or a right of way or water-course the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

13. The Forest Settlement Officer, while passing any order under section 12 shall record, so far as may be practicable,

(a) the name, father's name, caste, residence and occupation of the person claiming the right; and

(b) the designation, position and area of all fields or groups of field (if any) and the designation and position of all buildings (if any) in respect of which such right is claimed.

14. If the Forest Settlement Officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to gaze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest produce which he is from time to time authorised to take or receive and such other particulars as the case may require.

Record where Forest Settlement Officer admits claim.

15. (1) After making such record, the Forest Settlement Officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as shall ensure the continued exercise of the rights so admitted.

Exercise of rights admitted.

(2) For this purpose the Forest Settlement Officer may—

(a) set out some other forest tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or

(b) so alter the limits of the proposed forest as to exclude forest land of sufficient extent and in a locality reasonably convenient, for the purposes of the claimants; or

(c) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, in such seasons, within such portions of the proposed reserved forest, and under such rules, as may be made in this behalf by the State Government.

(3) In the case of right of way or water course, the Forest Settlement Officer shall record, by whom and for what purpose, it may be utilised and the conditions attached to its use.

16. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the State Government may make in this behalf, commute such rights by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Commutation of rights.

17. A copy of every order passed under section 11, section 12, section 15 and section 16 shall be furnished to the claimant by the Forest Settlement Officer and also to the Forest Officer who represented the State Government at the inquiry, or where no such officer was appointed, to the Divisional Forest Officer concerned free of cost within thirty days of passing of such order.

Supply of copy of order passed under section 11, section 12, section 15 or section 16 to certain persons.

Appeal from order passed under section 11, section 12, section 15 or section 16.

Appeal under section 18.

Pleaders.

Notification declaring forest as reserved.

18. Any person who has made a claim under this Act or any Forest Officer or a person generally or specially empowered by the State Government in this behalf, may, within three months from the date of the order passed on such claims by the Forest Settlement Officer under section 11, section 12, section 15 or section 16, present an appeal from such order to the District Judge;

Provided that the State Government may establish a court (hereinafter called the Forest Court) consisting of three persons to be appointed by the State Government and when the Forest Court has been so established, all such appeals shall be presented to it.

19. (1) Every appeal under section 18 shall be made by a petition in writing, within fifteen days of the date of receipt of the order of the Forest Settlement Officer, to the authority competent to hear the same.

(2) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(3) The District Judge, or the Forest Court, as the case may be, may, after giving to the party an opportunity of being heard, confirm, set aside or modify, the orders under appeal or remand the case to the Forest Settlement Officer with such directions as he thinks fit.

(4) During the pendency of the appeal the District Judge or the Forest Court, as the case may be, may, for sufficient cause, stay on such terms, if any, as he thinks fit, the operation of the order appealed from and pass any incidental or consequential order.

(5) If the order is reversed or modified in appeal, the Forest Settlement-officer shall proceed to deal with it in like manner as it had been in the first instance made by himself.

(6) The order passed on the appeal by the District Judge or the Forest Court, or by the majority of the members of such Court, as the case may be, shall subject only to provision of section 24, be final.

20. The State Government, or any person who has made a claim under this Act may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer or the appellate authority in the course of any inquiry or appeal under this Act.

21. (1) When the following events have occurred, namely:—

(a) The period fixed under section 6 for preferring claims has elapsed and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-Officer;

(b) If any such claims have been made, the period limited by section 18 for appealing from the orders passed on such claim has elapsed and all appeals (if any) presented within such period have been disposed of by the appellate authority; and

(c) all lands (if any) to be included in the proposed reserved forest, which the Forest Settlement-Officer has under section 11,

elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under section 16 of that Act.

the State Government shall publish a notification in the official Gazette, specifying definitely, according to boundary marks erected or otherwise the limits of the land which is to be reserved, and declaring the same to be reserved from a date by the notification.

(2) From the date so fixed such land shall be deemed to be a reserved forest.

22. Notwithstanding anything contained in this Act or any other law for the time being in force, any forest land or waste land in the territories comprised within State, immediately before the date of its merger if any of the integrating States now forming part of any State or Union Territories in the Indian Union (hereinafter in this section referred to as the merged territories),—

(a) which was deemed to be a reserved forest under any enactment in force in that State, or

(b) which had been recognised or declared by the Ruler of such State as a reserved forest under any law (including any enactment, rule, regulation, order, notification, custom or usage having the force; or

(c) which was dealt with as a reserved forest in any administration report or in accordance with any working plan or register maintained and acted upon under the authority of the Ruler,

shall be deemed to be and since the said date to have continued to be a reserved forest for the purpose of this Act subject to the same rights and concessions, if any, in favour of any person as were in force immediately before the said date.

23. The Forest-officer shall, before the date fixed by such notification under section 20, cause a translation thereof into the local language to be published in every town and village in the neighbourhood of reserved forest.

Forest
land or
waste
land
when
deemed
to be re-
served
forest.

Publica-
tion of
transla-
tion of
such
notifica-
tion in
neigh-
bourhood
of forest.

24. The State Government may, within five years from the publication of any notification under section 21, revise any arrangement made under section 15 or order made on an appeal under section 19, and may for this purpose rescind or modify any order made under section 15 or on appeal under section 19, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

Power to
revise
arrange-
ment
under
section 15
or sec-
tion 19.

Power to
com-
mute
rights.

25. The State Government may at any time from the publication of the notification under section 21, commute rights admitted under section 12 or section 15 or under appeal under section 19 to such extent as it may deem necessary.

Power of
the Gov-
ernment to
redef-
ine the
limits of
reserved
forests in
certain
cases.

26. (1) Where the description of the limits of any reserved forest notified under section 21 is defective or is not clear in reference to existing facts, the State Government may by notification in the Official Gazette, declare their intention to redefine the limits of such reserved forest so as to remove the defect or to make the description clear in reference to existing facts and such notification shall specify as nearly as possible the correction which it is proposed to effect to the limits of the reserved forest.

(2) On the issue of a notification under sub-section (1), the Divisional Forest Officer shall publish in the Official Gazette and in such other manner as may be prescribed by rules made in that behalf, a notice—

(a) specifying the corrections proposed by the notification under sub-section (1); and

(b) stating that any objections which may be made in writing to the Divisional Forest Officer within a period of thirty days from the date of publication of the notice, will be considered by him.

(3) After the expiry of the period referred to in clause (b) of sub-section (2) and after considering the objections, if any, the Divisional Forest Officer, after giving an opportunity to the aggrieved party to be heard in person, shall submit to the Government the record of the proceedings held by him together with a report thereon.

(4) The Government may, after considering the report of the Divisional Forest Officer, by notification in the official Gazette re-define the limits of the reserved forest, as proposed by the notification under sub-section (1), with such modifications as they think fit or without any modifications.

(5) Save as provided in this section it shall not be necessary to follow the procedure laid down in section 4 to section 19 before issuing a notification under sub-section (4).

No right
acquired
over re-
served
forests,
except
as here
provided.

27. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right as vested when the notification under section 21 was issued.

Rights
not to be
aliena-
ted
without
sanction.

28. (1) Notwithstanding anything contained in section 27, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the State Government:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber of other forest produce obtained in exercise of any such right shall be sold or bartered.

29. The Forest-Officer may stop any public or private way or water-course in a reserved forest:

Provided that if a substitute for the way or water-course so stopped, already exists, or has been provided or constructed by the Forest-Officer in lieu thereof.

Power to stop ways and water courses in re-served forests.

30. (1) Any person who—

(a) contravenes the provisions of clause (b) or clause (c) of sub-section (1) of section 5; or

(b) sets fire to a reserved forest, or in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;

or who, in a reserved forest—

(c) kindles, keeps or carries any fire except at such seasons as the Forest-Officer may notify in this behalf;

(d) trespasses or permits cattle to trespass and pastures cattle;

(e) causes any damage by negligence in felling any tree or cutting or dragging or removing any timber;

(f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from or otherwise damages the same;

(g) quarries stone, burns lime or charcoal, or collects, damages subjects to any manufacturing process, or removes, any forest produce;

(h) clears or breaks up any land for cultivation or any other purpose, or cultivates or attempts to cultivate any land in any other manner;

(i) in contravention of any rules made in this behalf by the State Government hunts, shoots or attempts to shoots fishes, poisons water kills or catch elephants or sets traps or snares in any area where the wild life (Protection) Act, 1972 is not in force;

(j) damages, alters or removes any wall, ditch embankment, fence, hedge or railings;

(k) sells or barters any timber or other forest-produce obtained in exercise of any rights or concessions;

shall in addition to such compensation for damages caused to the forest as the court may direct to be paid, be punishable—

(i) with imprisonment for a term which shall not be less than three months but may extend to three years and also with fine which shall not be less than rupees five hundred and may extend to five

Acts pro-hibited in such forests.

thousand rupees or with both in case of offences relating to sandal-wood, rosewood, red sanders wood and such other forest-produce as the State Government may by notification in the official Gazette specify; and

(ii) with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both in the case of all other offences mentioned in this sub-section.

(2) Nothing in this section shall be deemed to prohibit—

(a) any act done by permission in writing of the forest officer, or under any rule made by the State Government; or

(b) the exercise of any right continued under clause (c) of sub-section (2) of section 15,

or created by grant or contract in writing made by or on behalf of the Government under Section 27.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, or theft of forest-produce occurs on such a scale as to be likely to imperil the future yield of such forest, the State Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest produce shall be suspended for such period as it thinks fit.

(4) Where a person contravenes the provision of clause (d) or (h) of Sub-section (1)—

(i) a Forest-officer, or

(ii) a Police-officer not below the rank of a Sub-inspector, or

(iii) a Revenue-officer not below the rank of a Deputy Tehsildar or as may be notified by the State Government,

may direct the person from the forest or the land, pertaining to which the contravention has taken place and demolish any building or other construction and remove anything grown or deposited on it;

(5) Where any agricultural or other crop as grown on the land in contravention of clause (h) of sub-section (1) or any building or other construction is put up on such land, any such crop, building or other construction shall be liable to confiscation by an order of the Divisional Forest-Officer.

**Power to
declare
forests
no longer
reserved.**

31. (1) The State Government may, by notification in the official Gazette, direct that, from a date fixed by such notification, any land or any portion thereof reserved under this Act shall cease to be a reserved forest;

Provided that no such notification shall be issued unless a resolution to that effect has been passed by the State legislature or by both Houses of the State legislature where there exist two Houses of legislature.

(2) From the date so fixed, such land or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III

PROTECTED FORESTS

32. (1) The State Government may, by notification in the official Gazette, declare the provisions of this Chapter applicable to any land which is not included in a reserved forest, but which is the property of Government, or over which the Government has property rights or to the whole or any part of the forest-produce of which the Government is entitled.

Protected forests.

(2) The lands comprised in any such notification shall be called a "protected forest".

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient:

Provided that, if in the case of any land, the State Government thinks that such inquiry and record are necessary, but that they shall occupy such length of time as in the mean-time to endanger the rights of Government, the State Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or effect any existing rights of individuals or communities.

(4) Every such record shall be presumed to be correct until the contrary is proved.

33. Forests recognised in the merged territories as village forests or protected forests other than reserved forests, by whatever name designated or locally known, shall be deemed to be protected forests within the meaning of this Act and provisions of section 22 shall *mutatis mutandis* apply.

Forest land or waste-land when deemed to be protected forests.

34. The State Government may, by notification in the Official Gazette.—

(a) declare any trees or class of trees or other forest-produce in a protected forest to be reserved from a date fixed by the notification;

Power to issue notification reserving trees, etc.

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonable convenient, for the due exercise of the rights suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid the quarrying of stone or the burning of lime or charcoal, any or the collection or subjection to any manufacturing process, or removal of any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

Publication of translation of such notification in neighbourhood.

35. The Divisional Forest Officer shall cause a translation into the local language of every notification issued under section 34 to be affixed in a conspicuous place in every town and village in the neighbourhood of forest comprised in the notification.

Power to make rules for protected forests.

36. The State Government may, by notification in the official Gazette, make rules to regulate all or any of the following matters, namely:—

(a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;

(b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;

(c) the granting of licences to persons felling or removing trees or timber or other forest produce from such forests for the purposes of trade, and the production and return of such licences by such persons;

(d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut trees or to collect and remove such timber or other forest-produce;

(e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;

(f) the examination of forest-produce passing out of such forests;

(g) the protection from fire of timber lying in such forests and of trees or other forest-produce reserved under section 34;

(h) the cutting of grass and pasturing of cattle in such forests;

(i) hunting, shooting, fishing, poisoning water, killing and catching of elephants and setting traps or snares in such forests, in areas where the Wild Life (Protection) Act, 1972, is not in force.

(j) the protection and management of any portion of a forest closed under section 34;

(k) the exercise of rights referred to in section 32.

37. (1) Any person who commits any of the following offences, namely:—

(a) fells, girdles, lops taps, burns any tree or strips off the bark or leaves from, or otherwise damages or removes any such tree or other forest-produce reserved under section 34.

(b) contrary to any prohibition under section 34, quarries any stone or burns any lime or charcoal or collects, subjects to any manufacturing process, or removes any forest-produce;

(c) contrary to any prohibition under section 34, breaks up or clears for cultivation or any other purpose or cultivates or attempts to cultivate any land in any other manner in a protected forest;

(d) sets fire to such forest or kindles a fire;

(e) leaves burning any fire kindled by him in the vicinity of such forests;

(f) fells any tree or removes any timber or other forest-produce so as to damage any tree or other forest produce notified under section 34.

(g) permits cattle to damage any forest-produce;

(h) infringes any rules made under section 36, shall, in addition to such compensation for damages caused to the forest as the court may direct to be paid, be punishable—

(i) with imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both in the case of offences relating to sandalwood, red sanders wood and such other forest produce as the State Government may by notification in the Official Gazette, specify;

(ii) with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees or with both in the case of all other offences mentioned in this sub-section.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest or theft of forest-produce occurs on such a large scale as to likely to imperil the future yield of such forest, the State Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

(3) Where a person contravenes the provision under clause (c) of sub-section (1),—

(a) a Forest-officer, or

(b) a Police-officer not below the rank of sub-inspector, or

(c) a Revenue Officer not below the rank of Deputy Tehsildar, may evict him from the land in respect of which he has committed the offence.

Penalties for acts in contravention of notification under section 54 or of rules under section 36.

Nothing in this Chapter to prohibit acts done in certain cases.

Power to declare forest no longer protected.

38. Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 36, or as regards any rights the exercise of which has been suspended under section 37, in the exercise of any right recorded under section 32.

39. (1) The State Government may, by notification in the Official Gazette, direct that, from a date fixed by such notification, any land or any portion thereof protected under this Act, shall cease to be a protected forest:

Provided that no such notification shall be issued unless a resolution to that effect has been passed by the State legislature, if the area so involved is more than 20 ha.

(2) From the date so fixed, such land or portion thereof shall cease to be protected but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER IV

VILLAGE FORESTS

Formation of village forests.

40. (1) The State Government may, by notification in the Official Gazette, constitute any land at the disposal of Government or village community, other than the reserved forests, as village forest for the benefit of any village community or group of village communities and may in like manner vary or cancel such notification.

(2) Every such notification shall specify the limits and extent of such village forest. ..

(3) No such notification shall be made unless the nature and extent of the rights of Government or of private persons on or over the forest land or wasteland comprised therein have been inquired into and recorded at a survey and settlement or in such other manner as the State Government thinks it sufficient:

Provided that, if, in the case of forest land or waste land the State Government thinks that such enquiry and record are necessary, but they shall occupy such length of time as in the mean-time to endanger the rights of Government, the State Government may, pending such enquiry and record, declare such land to be a village forest but so as not to abridge or affect any existing rights of any individual or community.

(4) Every such record shall be presumed to be correct until the contrary is proved. |

Rules for regulating the management.

41. (1) The State Government may, by notification in the Official Gazette, make rules for regulating the management of village forests, prescribing the conditions under which the communities and the group of communities for the benefit of which any such village forest is constituted may be provided with forest-produce or with pasture and their duties in respect of protection and improvement of such forests.

(2) The State Government may, by such rules, declare that all or any of the provisions of Chapter II or Chapter III of this Act be applicable to such village forests.

CHAPTER V

CONTROL OVER FOREST AND LAND NOT BEING THE PROPERTY OF GOVERNMENT

42. (1) The State Government may, by notification in the Official Gazette regulate or prohibit in any forest or waste land not being the property of the Government,—

Protection of forests for special purposes.

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle;
- (c) the firing or clearing of the vegetation;
- (d) the girdling, tapping or burning of any tree or the stripping off bark or leaves from any tree;
- (e) the lopping or pollarding of trees;
- (f) the cutting, sawing, conversion or removal of trees and timber;
- (g) the quarrying of stones, or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;
- (h) the exercise of customary and prescriptive rights or the regeneration of forests and the protection from fire in such land; when such regulation or prohibition appears necessary for any of the following purpose:—
 - (i) for protection against storms, winds, rolling stones, floods, drought and avalanches;
 - (ii) for the preservation and improvement of the soil or the reclamation of saline or waterlogged land, the prevention of landslip or of the formation of ravines and torrents; or the protection of land against erosion, or the deposit thereon of sand, stones, or gravel;
 - (iii) for the maintenance of water-supply in springs, rivers, tanks, irrigation works and reservoirs;
 - (iv) for the protection of roads, bridges, railways and other lines of communication;
 - (v) for the preservation of the environment and public health;
 - (vi) for the improvement of grazing, maintenance, increase and distribution of the supply of fodder, leaf manures, timber of fuel and to check pilferage of forest produce;

(vii) for the raising or conservation of trees and forests for public good.

(2) The State Government may, for any such purpose, construct at its own expense in or upon any land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2) until after the issue of a notice to the owner of such land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and any evidence he may produce in support of the same, have been heard by the divisional forest officer.

(4) The show cause notice may require that for any period not exceeding one year or till the date of the making of a notification, whichever is earlier, the owner of such forest and all persons who are entitled or permitted to do therein any or all of the things specified in clauses (a) to (h) of sub-section (1) whether by reason of right, title or interest or under any licence or contract or otherwise, shall not, after the date of the notice and for the period or until the date aforesaid as the case may be, do any or all the things specified in clauses (a) to (h) of sub-section (1) to the extent specified in the notice.

(5) The notice referred to in sub-section (3) of this section, or sub-section (1) of section 44 and the order, if any, made placing the forest under the control of a Forest-officer, shall be served on the owner of such forest in the manner provided in the Code of Civil Procedure, 1908, for the service of summons and shall also be published in the manner prescribed by rules.

5 of 1908

(6) When a notice has been served or published as aforesaid any person acquiring thereafter the right of ownership of the forest shall be bound by the notice as it had been served on him as an owner and shall accordingly comply with the notice requisition and notification.

(7) Any person contravening any of the provisions of a notification issued under sub-section (1) or any requisition made under sub-section (4) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to six months or with fine, which may extend to five hundred rupees or with both.

Bar of
suits.

43. No order of the State Government or by any officer empowered by the State Government in this behalf under this Chapter and notification issued by the State Government under section 42 shall be liable to be questioned in any court of law.

Power to
assume
manage-
ment of
forests.

44. (1) In case of neglect of or wilful disobedience to any regulation or prohibition under section 42, or if the purposes of any work to be constructed under that section so require, the State Government may, after notice in writing to the owner of such land and after considering his objections, if any, place the same under the control of a forest-officer and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such land.

(2) The net profits, if any, arising from the management of such a land shall be paid to the said owner.

(3) The notification assuming management of a land under sub-section (1) shall be conclusive and no suit shall lie against it.

45. The period of control of management of any forests under section 44 shall be for a period of ten years from the date of the order aforesaid but such period may thereafter be extended for successive period of not more than ten years each provided that the period of such control shall not in the aggregate exceed thirty years from the date of the order.

Period of control.

46. If the State Government decides to terminate—

Termination of control.

(i) any period of control of any forest, it shall, by order, published in the Official Gazette and in such other manner as may be prescribed by rules, declare and thereupon possession of the forest shall be given to the owner or if the owner be dead, to any person entitled to such possession, together with any sum of money which may be standing to the credit of such owner;

(ii) all acts done or purported to be done by the Forest Officer in respect of any forest placed under his control, during the period of such control or of the extension thereof, shall be binding on the owner of such forest or any person to whom possession of the forest has been delivered under this section.

47. (1) In any case under this Chapter in which the State Government considers that in lieu of placing the forest or land under the control of a Forest-officer, the same shall be acquired for public purposes, the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894.

Expropriation of forests in certain cases.

(2) The owner of any land comprised in any notification under section 42, may, at any time not less than three or more than twelve years from the date thereof, require that such land shall be acquired for public purposes, and the State Government shall acquire such land accordingly.

48. (1) The owner of any land or, if there be more than one owner thereof, the owners of majority of shares therein may, with a view to the formation or conservation of forests thereon represent in writing to the Forest-Officer their desire—

Protection of forests at request of owners.

(a) that such land be managed on their behalf by the Forest-Officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or

(b) that all or any of the provisions of this Act be applied to such land.

(2) In either case, the State Government may, by notification in the Official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER VI

REGULATION OF FELLING AND REPLANTING OF TREES IN URBAN AREAS

Prohibiting felling cutting, damaging, destroying a tree in any urban area.

Establishment of Tree Authority.

49. The State Government may, by notification in the Official Gazette, prohibit from the date specified in such notification cutting, damaging, destroying, felling or removing any tree in any urban area whether included in a private holding or not except under the provisions made in this Chapter or any rules made thereunder.

50. (1) The State Government, shall by notification in the Official Gazette, constitute a Tree Authority for each Urban Area notified.

(2) Such authority shall consist of seven members as follows:—

(i) the Mayor or the President of the Municipal Corporation or the Municipal Councillor or Notified Area Committee;

(ii) the Deputy Commissioner or the District Collector or his representative;

(iii) a representative of the State Forest Department;

(iv) a representative of the State Agriculture Department;

(v) a representative of the District Horticulture Officer;

(vi) the Municipal Commissioner or the Chief Executive Officer, as the case may be; and

(vii) a member of the Municipal Corporation or the Municipal Council or the Notified Area Committee as may be nominated by the Mayor or the President, as the case may be:

Provided that where the Corporation or the Municipal or the Notified Areas Committee is superseded such persons as the State Government may nominate shall be members.

(3) The Tree Authority may co-opt in such manner and for such a period as it may determine not more than three representatives of non-official organisations having special knowledge and practical experience in the field of planting and preservation of trees.

(4) The State Government shall appoint one of the members specified in sub-section (2) to be the Chairman:

Provided that where the Corporation or the Municipal Council or the Notified Area Committee is superseded such member as the State Government may appoint shall be the Chairman and the State Government shall appoint another member to be the Secretary who shall generally be the representative of the State Forest Department.

Meeting of Tree Authority.

51. (1) The Tree Authority shall meet at least once in three months at such place and time as the Chairman may decide.

(2) The quorum of the meeting of the Tree Authority shall be a minimum of three members.

52. Notwithstanding anything in the relevant Act or any other law for the time being in force the Tree Authority shall subject to any general or special order of the State Government be responsible for—

- (a) the preservation of all trees within its jurisdiction;
- (b) obtaining declarations from all owners or occupants about the number of trees in their lands;
- (c) specifying the standards regarding the number and kind of trees which each locality, type of land and premises shall have;
- (d) assisting private and public institutions connected with planting and preservation of trees; and
- (e) undertaking such schemes or measures as may be directed from time to time for achieving the objectives of these provisions.

53. (1) As soon as may be after these provisions are brought into force in any urban area the State Government shall appoint one or more Forest Officers not below the rank of a Forest Range Officer as Tree Officer for the said urban area.

(2) Every Tree-officer shall exercise jurisdiction over the whole or such part of the urban area as the State Government may from time to time determine.

54. (1) On and after the date on which these provisions are brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force no person shall fell any tree or cause any tree to be felled in any land whether in his ownership or occupancy or otherwise situated within that urban area except with the previous permission of the Tree Officer.

(2) On receipt of an application from any person to fell any standing tree or to cut, remove or otherwise dispose of the fallen tree, the Tree Officer shall, after making such inquiry as he may think fit, either grant permission in whole or in part or refuse the permission applied for:

Provided that no such permission shall be refused if the tree—

- (i) is dead, diseased or wind-fallen, or
- (ii) has silviculturally matured, or
- (iii) constitutes a danger to life or property; or
- (iv) constitutes obstruction to traffic; or
- (v) is substantially damaged or destroyed by fire, lightening, rain or other natural causes.

(3) The Tree-Officer shall decide the issue and communicate his orders granting or rejecting the permission applied or in whole or in part within forty-five days of the receipt of the application failing which the permission shall be deemed to have been granted.

(4) Where permission to fell any standing tree or to cut, remove or otherwise dispose of the fallen tree/trees is granted, the applicant shall plant or raise by coppice another tree or trees of the same or other

Duties of
Tree Au-
thority.

Appoint-
ment of
Tree
Officer.

Restric-
tions on
felling of
trees.

suitable species in the manner or within such time as may be specified by the Tree-Officer.

Planting of adequate number of trees in urban area.

55. If, in the opinion of the Tree-officer, the number of trees in any land is not adequate according to the standards prescribed under clause (c) of section 52, the Tree officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant trees to the requisite extent and at such places and within such time as may be specified.

Planting in place of fallen or destroyed trees.

56. When any tree is fallen or destroyed by wind, fire, lightning rain or such other natural causes, the Tree-Officer may, on information given to him, after holding such inquiry as he deems fit, by order, require such owner or occupant, plant a tree or trees in the place of the trees fallen or destroyed within such time and in such manner as may be specified in the order.

Responsibilities for preservation of trees.

57. (1) When an order is made by the Tree Officer under section 54, section 55 or section 56, subject to the provisions of section 58, it shall be the duty of the owner or occupier of the land who is directed to plant a tree so that the tree grows properly and is well preserved.

(2) It shall also be the duty of such owner or occupier to preserve all other trees existing on the land on the date of coming into force of the provisions of this Chapter.

The recovery of expenditure on failure to comply with orders for planting of trees.

58. Where the owner or the occupier of the land fails to comply with any order made by the Tree-Officer under section 55 or section 56 or section 57, the Tree-Officer may, after giving a reasonable opportunity to such owner or occupier of being heard and without prejudice to any other action which may be taken against the defaulter under these provisions, take the necessary action himself and recover the expenditure incurred therefor from the owner or the occupier as the case may be.

Appeal to the Tree Authority.

59. (1) When any decision is given or order is made under section 55, section 56 or section 57 by the Tree-Officer, an appeal shall lie to the Tree Authority.

(2) The appeal shall be made within thirty days from the date the decision is communicated to or the order is received by the owner or occupier of the land.

(3) The Tree Authority shall, as far as possible, decide the appeal within sixty days from the date of its receipt after giving a reasonable opportunity to the appellant of being heard.

(4) The decision of the Tree Authority shall be final and shall not be questioned in any court of law.

Seizure by Tree Officer.

60. When the Tree Officer has reason to believe that an offence under the provisions of this Chapter has been committed in respect of any tree he may seize the tools, ropes, chains, boats, vehicles or cattle used for the commission of the said offence alongwith tree or part thereof which has been served from the ground and proceed against the accused under section 96 to section 106.

61. Whoever fells any tree or causes any tree to be felled in contravention of the provisions of this Chapter or any rules made thereunder without any reasonable excuse, or not comply with any order issued or conditions imposed by the Tree Officer or any other officer subordinate to him in the discharge of their functions under the provisions of this Chapter, shall on conviction be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for fell-ing trees in urban areas.

CHAPTER VII

REGULATION OF FELLING AND REPLANTING OF TREES IN RURAL AREAS

62. The State Government may, by notification in the Official Gazette, prohibit, from such date or dates specified in such notifications, cutting, damaging, destroying, felling or removing any class or kind of trees in any specified rural area whether included in a private holding or not except under the provisions of this Chapter.

Prohibiting, cutting, damaging, destroy-ing and felling of trees in any specified rural areas.

Appoint-ment of Autho-rised Officer.

63. The State Government may, by notification in the Official Gazette, appoint Forest Officer not below the rank of a Forest Ranger, herein-after called an Authorised officer, for the purpose of the provisions of this Chapter and may assign to him such local limits in the specified area mentioned in section 62 as the State Government may from time to time determine.

64. The Authorised Officer may, on receipt of an application from any person to fell any standing tree or trees or to cut, remove or otherwise dispose of the fallen tree or trees, after making such inquiry as he thinks fit, either grant or refuse such permission to him to do so:

Restric-tions on felling of trees.

Provided that such permission shall not be refused if the tree constitutes danger to person or property or has silviculturally matured or is dead or is substantially damaged by fire, lightening, rain or other natural causes:

Provided further that such permission shall not be required for felling of any tree with a view to appropriate the wood or leaves thereof for bonafide use for purpose of fuel, agricultural implements or other domestic use:

Provided also that such immediate steps as are necessary to remove any obstruction or nuisance or to prevent any danger may be taken without the permission of the Authorised Officer.

65. (1) The Authorised Officer shall give decision in case of an application under section 64 in respect of standing tree within sixty days from the date of receipt of such application, and in the case of an application in case of a fallen tree within fifteen days of receipt of such application.

Autho-rised Officer to give-de-cision within a fixed time.

(2) If the Authorised Officer fails to give his decision within the time limit specified in sub-section (1), the permission referred to shall be deemed to have been granted.

(3) Every permission granted under these provisions shall be in such form and subject to such condition, for ensuring regeneration of area and replanting of trees or otherwise as may be prescribed by the State Government.

Planting adequate number of trees in rural areas.

66. (1) When the Authorised Officer is of the opinion that trees should be planted in any blank area situated in the specified rural areas mentioned in section 62, he may issue a notice to the owner, occupier or tenure holder of such blank area to show cause why trees should not be planted in such areas as may be specified in such notice.

(2) The notice referred to in sub-section (1), shall be given in such form and shall contain such particulars and shall be served in such manner as may be prescribed by the State Government.

(3) The Authorised Officer may after considering the replies if any, given by the claimant, direct him to plant such manner and class of trees as may be specified in these directions.

Appeals to Authorised Officer.

67. (1) Any person aggrieved from any directions given under sub-section (3) of section 65 and sub-section (3) of section 66 may, within thirty days from the date of receipt of such direction, prefer an appeal to the officer so authorised by the Government in this regard.

(2) The officer so authorised shall not be of the rank below that of Conservator of Forests and his decision shall be final.

Obligation to plant trees.

68. (1) Every person who is under an obligation to plant trees under section 65 or to whom any direction has been given under section 66, shall plant the trees in accordance with such direction in the following rainy season or with such extended time as the Authorised Officer may allow.

(2) In case of default by such persons, the Authorised Officer may cause trees to be planted and may recover the cost of plantation from such persons.

Seizure by Forest Officer.

69. When there is reason to believe that any tree has been felled or cut or removed in contravention of the provisions of this Act, the wood of such tree together with vehicles, ropes, tools, chains, cattle, if any, used in such contravention may be seized by any Forest Officer and the accused shall be proceeded against as provided under section 91 to section 106.

Penalties for fell-ing trees in rural areas.

70. Whoever fells or causes to be felled any standing tree or cuts, remove or otherwise disposes of any fallen tree in contravention of the provisions of this Chapter or any rules made thereunder or contravenes any condition of any permission granted under the provisions of this Chapter, shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

CHAPTER VIII

SPECIAL PROVISIONS RELATING TO SANDALWOOD

71. Notwithstanding anything contained in any law, contract, grant or other instruments or judicial decision—

(i) All sandal trees, which may grow in any land after the date of the commencement of this Act; and

(ii) All sandal trees existing in any land prior to the commencement of this Act and the ownership of which is vested in the State Government, shall be the exclusive property of the State Government.

72. (1) Any person who by the terms of his sanaq, grants, or any judicial decision or otherwise is, prior to the commencement of this Act, legally entitled to the sandal trees in his lands shall not fell or sell any such sandal trees.

(2) The Chief Conservator of Forests of the State may cause any such sandal trees or trees growing in such lands to be cut or uprooted and sold at the request and on behalf of such person entitled to the same as aforesaid in accordance with the rules as may be prescribed.

73. No person shall possess, store or sell or attempt to store or sell sandalwood or disintegrate or attempt to dis-integrate sandalwood in mills or by other contrivance manufacture or distil oil from sandalwood or re-distil, refine or sell oil extracted from sandalwood except under a licence obtained from a Forest Officer empowered in this behalf on payment of such fees and conditions as may be prescribed.

Provided that no such licence shall be necessary for possession of sandal wood up to five kilograms for a bona fide domestic use.

74. Every occupant or tenant or holder of land shall be responsible for the due preservation of all sandal trees growing thereon, which are the exclusive property of the State Government and shall, in the event of any damage to any such tree from whatever cause or its thefts, at once report such fact to the nearest Forest Officer or Police Officer.

75. Whoever fells or causes to be felled any standing sandalwood tree or cut, remove or otherwise disposes of any fallen sandalwood tree in contravention of provisions of this Chapter or any regulations made thereunder shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Sandal tree shall be exclusive property of State Government.

Disposal of sandal-wood belonging to private persons.

Regulation of sale and manufacture of sandal-wood and sandal-wood oil.

Responsibility of occupants and holders of land for the preservation of sandal trees.

Penalty for offences relating to sandal-wood.

CHAPTER IX

POWER TO MAKE LAW FOR DUTY ON TIMBER AND OTHER FOREST-PRODUCE

Power to make law for imposition of duty on timber and other forest produce.

76. The Central Government may by law made by Parliament in this behalf, levy a duty on all timber or other forest-produce—
- (a) which is produced in the territories to which this Act extends and in respect of which the Government has any right;
 - (b) which is brought from any place outside the territories to which this Act extends;
 - (c) which is taken out to any place outside the territories to which this Act extends.

CHAPTER X

CONTROL OF TRADE, POSSESSION AND TRANSIT OF TIMBER AND OTHER FOREST-PRODUCE

Regulation of trade in forest-produce.

77. (1) The State Government may, by notification issued in the Official Gazette, prescribe that in the specified area from such date or dates as may be specified in the said notification, no person other than—
- (a) the State Government; or
 - (b) an officer of the State Government authorised in writing in this behalf; or
 - (c) any other person, company, corporation, cooperative society or any other corporate body who may be required to undertake an operation in the area under any contract or agreement with the State Government or an officer authorised by them;

shall purchase, transport or sell any forest produce or any class of forest produce specified in the notification.

Explanation I.—Purchase of the aforesaid forest-produce from the State Government or the aforesaid officer of the State Government shall not be deemed to be a purchase in contravention of the provisions of this Act.

Explanation II.—Transport of the aforesaid forest-produce by any person having purchased them from the State Government or the aforesaid officer of the State Government to any place outside the area for manufacture or further disposal shall not be deemed to be a transport or sale in contravention of the provisions of this Act.

- (2) The State Government may make rules to carry out all or any of the provisions of sub-section (1) and in particular, may provide for—

- (a) procedure to be followed for felling, extraction, possession, processing, transport and sale of such forest-produce as well as its purchase from private growers;
- (b) opening of the depots and fixing of sale price;

(c) any other matter which is either expressly or impliedly required to be prescribed for carrying out the provision of sub-section (1).

78. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in possession or transit by land or water, is vested in the State Government, and it may make rules to regulate the possession or transit of all timber and other forest-produce.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the routes by which alone timber or other forest-produce be imported, exported or moved into, from or within the State;

(b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes and for the payment of fees therefor;

(d) provide for the stoppage reporting, examination and making of timber or other forest-produce in transit or at the prescribed check-posts, in respect of which an offence is suspected to have been committed or there is reason to believe that any money is payable to the Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;

(e) provide for the establishment and regulation of depots, in respect of cases falling under clause (d), to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such marks that may be affixed to it, and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots;

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;

(g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same, or for providing alternative arrangement for floating timber when public interest may necessitate the obstruction of channel;

(h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of sawpits or machines for sawing,

Power to make rules to regulate possession or transit of forest-produce.

peeling or slicing, converting, cutting, burning concealing or making of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber;

(i) regulate the grant or licences within the forest limits and such distance therefrom not exceeding eighty kilometres as may be determined by the State Government in respect of,—

(i) the converting or cutting of timber in a saw mill;

(ii) the peeling and slicing of timber;

(iii) the converting of khairwood into katha; and

(iv) manufacturing of charcoal and prescribe fees and condition subject to which such licences may be granted;

(j) regulate the use of property marks for timber and the registration of such marks; prescribe the time, for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration;

(k) provide the setting up and regulation of check post or the erection of a barrier or both at such places as the State Government may specify;

(l) provide for the maintenance of accounts in respect of such forest-produce as the State Government may notify;

(m) provide for the protection of bridges, locks or other public works by regulating the floating of timber and the storing of such timber or other forest-produce on river banks and authorising the seizure of such timber or other forest-produce floated or stored in contravention of such rules or by which any damage to such work may have been caused and the detention and disposal of such timber or other forest-produce until compensation has been paid for the damage done; and

(n) authorise the transport of timber or other forest-produce across and land and provide for the award and payment of compensation for any damage done by the transport of such timber.

(3) The State Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.

79. Notwithstanding anything in section 78, the Central Government may make rules to prescribe the route by which alone timber or other forest produce may be imported, exported or moved into or from the territories to which this Act extends across any customs frontier as defined by the Central Government, and any rules made under section 78 shall have effect subject to the rules made under this section.

80. Notwithstanding anything contained in the provisions under this Chapter, the Central Government, in consultation with the State Governments concerned, may make rules for the inter-State movement of anti forest-produce or class of forest-produce specified in the notification under section 77 of this Act:

Provided, however, that there shall be rules for the control of the inter-State movement of sandalwood, rosewood and red sanders wood.

Powers of the Central Government to make rules for the inter-state movement of forest-produce.

81. The contravention of the provisions of this Chapter or of any rules made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for breach of rules made under section 78.

82. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while in transit or at a depot established under rules made under section 78, or while detained elsewhere, for the purposes of this Act, and no Forest-Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and Forest-Officer not liable for damage to forest produce at depot.

83. In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the Government or by any private person, shall render assistance to any Forest-Officer or Police Officer demanding his aid in averting such danger or securing such property from damage or loss.

All persons bound to aid in case of accident at depot.

CHAPTER XI

COLLECTION OF DRIFT AND STANDARD TIMBER

84. (1) All timber found adrift, beached, standard or sunk and all wood or timber bearing marks which have not been registered in accordance with the rules made under section 78, or on which the marks have been obliterated, altered or defaced by fire or otherwise and in such areas as the State Government directs, all unmarked wood and timber, shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rules made under section 90, and may be brought to any depot which the Forest-officer may notify as a depot for the reception of drift timber.

(3) The State Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

Notice to
claimants
of drift
timber.

Pro-
cedure
on claim
preferred
to such
timber.

Disposal
of un-
claimed
timber.

Govern-
ment and
its officers
not lia-
ble for
damage
to such
timber.

85. (1) Public notice shall from time to time be given by the Forest-officer of timber collected under section 84.

(2) Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date of such notice a written statement of such claim.

86. (1) When any such statement is presented as aforesaid, the Forest-Officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons who he deems entitled thereto, or may refer the claimants to the Civil courts, and retain the timber pending the receipt of an order from any such court for its disposal.

(3) Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government, or against any Forest-Officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(4) No such timber shall be subject to process of any civil, criminal or revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

(5) Where the matter is pending before a Court under this section, the Divisional Forest-Officer may, with the permission of the courts instead of retaining the timber under sub-section (2) sell the timber in public auction and remit the sale proceeds in the nearest Government treasury:

Provided that the Court may deal with the proceeds of the sale of any such timber as it would have dealt with such timber if it has not been sold.

87. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 85, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 86, the ownership of such timber shall vest in the Government or, when such timber has been delivered to another person under section 86, in such other person free from all encumbrances not created by him.

88. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 84 and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

89. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-Officer or other person, entitled to receive such sum on account thereof as may be due under any rule made under section 90.

Payments to be made by claimant before timber is delivered to him.

90. (1) The State Government may make rules to regulate the following matters, namely:—

(a) the salving, collection and disposal of all timber mentioned in section 84;

(b) the use and registration of boats and other vehicles used in salving and collecting timber;

(c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber; and

(d) the use and registration of hammers and other instruments to be used for marking such timber.

(2) The contravention of the provisions of this Chapter or any rules made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Power to make rules and prescribe penalties.

CHAPTER XII

PENALTIES AND PROCEDURE

91. (1) When there is reason to believe that forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, ropes, chains, boats, vehicles, or cattle used in committing any such offence, may be seized by any Forest-Officer or Police Officer.

Seizure of property liable to confiscation.

(2) Every officer seizing any property under this section shall place on such property or the receptacle if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that it shall not be necessary to make a report of such seizure to the Magistrate in the following cases, namely:—

(i) when the forest-produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient to make a report of the circumstances to the authorised officer.

(ii) when the offence falls under the purview of section 100.

(iii) when the Forest-Officer or Police Officer may if he has reason to believe that a vehicle has been or is being used for the transport of any forest-produce in respect of which a forest offence has been committed, require the driver or other person in charge of such

vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to goods carried, which are in possession of such driver or other person incharge of the vehicle.

Penalty for forcibly opposing Seizure.

92. Whoever forcibly opposes the seizure of tools, ropes, chains, boats, vehicles or cattle, liable to be seized under this Act, and whoever rescues the same after seizure shall be punishable with imprisonment for a period not exceeding one year or with fine not exceeding one thousand rupees or with both.

Power to release property seized under section 91.

93. Any Forest-Officer of a rank not below that of a Ranger who, or whose subordinate, has seized any tools, ropes, chains, boats, vehicles or cattle under section 91 may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made except in respect of offences falling under section 100 for which the procedure laid down in that section shall be followed.

Procedure there-
upon.

94. Upon the receipt of any report under sub-section (2) of section 91, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Forest-
produce,
tools etc.
when lia-
ble to
confisca-
tion.

95. (1) All timber or forest produce which is not the property of Government and in respect of which a forest-offence has been committed and all tools, ropes, chains, boats, vehicles or cattle used in committing any forest-offence shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal on con-
clusion of
trial for
forest-
offence
of pro-
duce in
respect of
which it
was com-
mitted.

96. Without prejudice to the provisions contained in section 100, when the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-Officer, and, in any other case, may be disposed of in such manner as the Court may direct.

Pro-
cedure
when
offender
not
known, or
cannot be
found.

97. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-Officer or to be made over to the person when the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

98. (1) The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 9L and subject to speedy and natural decay:

Provided that if, in the opinion of the officer seizing such property, it is not possible to obtain the orders of the Magistrate in time, such officer may sell the property himself, remit the sale proceeds into the Government treasury and may make a report of such seizure, sale and remittance to the Magistrate.

(2) The Magistrate may deal with the proceeds of the sale of any property sold under sub-section (1) as he would have dealt with such property if it had not been sold.

99. The officer who made the seizure under section 9L or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 95, section 96, or section 97 appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

100. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, where a forest-offence is believed to have been committed in respect of sandalwood, rosewood, ivory or such other forest-produce as may be notified by the State Government from time to time, the officer seizing the property under sub-section (1) of section 9L shall without any unreasonable delay produce it together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence before an officer not below the rank of an Assistant Conservator of Forests authorised by the Government in this behalf by notification in the Official Gazette hereinafter referred to as authorised officer.

(2) Where an authorised officer himself seizes any property mentioned in sub-section (1) above or where any such property is produced before him under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such property, he may order that any property of the Government so seized be taken charge of by a Forest Officer and the rest of the property so seized be confiscated and a copy of such order shall be sent to the authority competent to exercise revisional powers under section 102.

101. (1) No order under sub-section (2) of section 100 shall be made unless the person from whom the property is seized or who is believed to be the owner of the property,

(a) is given a notice in writing informing him of the grounds on which it is proposed to take action under sub-section (2) of section 100;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) is given a reasonable opportunity of being heard in the matter.

Procedure as to perishable property seized under section 91.

Appeal from orders under section 95, section 96 or section 97.

Confiscation of tools, etc. by Forest Officer in certain cases.

Issue of show-cause notice before confiscation under section 100.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any property so seized shall be made under section 100 if the owner of such property proves to the satisfaction of the authorised officer that it was used in the commission of the forest-offence without the knowledge or conivance of the owner himself, his agent, if any, or any person in charge of such property and that each of them had taken all reasonable and necessary precautions against such use.

Revision.

102. Any Forest Officer not below the rank of Conservator of Forests, authorised by the Government in this behalf by notification in the Official Gazette, may, before the expiry of thirty days from the date of the order of the authorised officer under section 100 *suo moto* call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and pass any such order as he deems fit provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

Appeal.

103. Any person aggrieved by an order passed under section 100 or section 102 may, within sixty days of the order so passed, appeal to the District Judge having jurisdiction over the area in which the property, to which the order relates, has been seized and the District Judge shall, after giving an opportunity to the appellant to be heard, pass such order as he deems fit confirming, modifying or annulling the order so appealed against and the order of the District Judge shall be final.

Award of
confiscation
not to interfere
with other
punishment.

104. The order of confiscation under section 100 or section 102 shall not prevent the infliction of any other punishment to which the person affected thereby is liable under this Act.

Property
when to
vest in
Government.

105. When an order for the confiscation of any property has been passed under section 95, section 97 or section 99, as the case may be, and the period limited by section 99 and section 103 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being referred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Saving of
power to
release
property
seized.

106. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under section 91.

Punish-
ment for
wrongful
seizure.

107. Any Forest-Officer or Police-Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both.

45 of 1860.

108. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-Officer; or

(c) alters, moves, destroys or defaces any boundary mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and also with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees.

109. (1) All offences under this Act shall be cognizable and any Forest-Officer or Police-Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

Power to arrest without warrant.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police station.

110. Any Forest-Officer of rank not below that of a Forest Ranger or Police Officer of rank not below that of a Sub-Inspector of Police within whose limits an offence under this Act has been or suspected to have been committed shall have the power to proceed to any place in any other State to arrest the accused and seize the property, involved in the offence and take such action incidental thereto, if such accused or property are found or suspected to be found in such place in such other State in accordance with the rules which may be prescribed in this regard.

Right to proceed to any place in any other State to arrest the accused, etc.

111. Any Forest Officer of rank not below that of a Forest Ranger or a Police of rank not below that of a Sub-Inspector of Police, who or whose subordinate, has arrested any person under the provisions of section 109 or section 110, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

Power to release on a bond a person arrested.

112. Every Forest Officer, Police Officer and Revenue Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest offence.

Power to prevent commission of offence.

Punish-
ment for
abettment.

113. (1) Any person who abets any of the offences specified in this Act shall, if the offence abetted is committed in the consequence of the abetment, be punishable with the same punishment as provided for the offence abetted.

(2) If the offence abetted is not committed the punishment for abetment shall be up to one fourth of the maximum punishment provided for the said offence.

Punish-
ment for
knowingly
receiving
any
forest
produce
illicitly
removed.

114. Any person who dishonestly receives or retains in his possession any forest-produce illicitly removed, knowing or having reason to believe the same to be removed, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty
for
offence
committed
under ag-
gravating
circum-
stances.

115. Any person who commits any of the offences specified in this Act after sun-set and before sun-rise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence, or persists in continuing the offence after being warned by a Forest-Officer or Police-Officer or Revenue Officer against it, shall be punishable with double the penalty prescribed for such offence.

Power to
try
offences
summarily.

116. A Magistrate of the second class or a Forest-Officer of a rank not lower than that of a Deputy Conservator of Forests acting as Special Magistrate, specially empowered in this behalf by the High Court may try summarily, under the Code of Criminal Procedure, 1973, any forest-offence punishable with imprisonment for a term not exceeding one year or one thousand rupees or with both.

2 of 1974.

Power to
compound
offences.

117. (1) The State Government may, by notification in the Official Gazette, empower a Forest Officer.

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 107 or section 108, a sum of money by way of compensation for the offence which such person is suspected to have committed. and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-Officer shall not be empowered under this section unless he is a Forest-Officer of a rank not below that of a Forest Ranger and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed such limits as may be fixed by the State Government.

118. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Presumption that forest produce belongs to Government.

119. Nothing in this Act shall be deemed to bar the prosecution of any person under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any other higher punishment or penalty than that provided by this Act, or the rule made thereunder:

Operation of other laws not barred.

Provided that no person shall be prosecuted and punished for the same offence more than once.

CHAPTER XIII

CATTLE-TRESPASS

120. Cattle trespassing in a reserved forest or in any portion of a protected forest or other classes of land to which the provision of this Act apply and which are lawfully closed to grazing shall be deemed to be cattle doing damage to public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest Officer or Police Officer or Revenue Officer.

Cattle-trespass Act, 1871 to apply.

121. The State Government may, by notification in the Official Gazette, direct that, in lieu of the fines fixed under section 12 of the Cattle trespass Act, 1871, there shall be levied for each head of cattle impounded under section 120 of this Act such fines as it thinks fit.

Power to alter fines fixed under that Act.

CHAPTER XIV

FOREST-OFFICERS

122. (1) The State Government may invest any Forest-Officer with all or any of the following powers, that is to say:—

State Government may invest forest officers with certain powers.

(a) power to enter upon any land and to survey, demarcate and make a map of the same;

(b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;

(c) power to issue a search-warrant under the Code of Criminal Procedure, 1973; and

(d) power to hold an inquiry into forest-offences, and in the course of such inquiry, to receive and record evidence.

2 of 1974. (2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Power of entry, inspection, investigation and prosecution.

Lawful for forest-officer to conduct prosecution.

Forest-Officers deemed public servants.

Indemnity for acts done in good faith.

Forest-Officers not to trade.

Additional powers to make rules.

Penalties for breach of rules.

123. Any Forest-Officer may at any time enter and inspect any private forest or land within his jurisdiction for the purpose of ascertaining whether there has been contravention of any of the provisions of this Act or the rules made thereunder or for the purpose of securing compliance with any such provision.

124. It shall be lawful for any Forest-Officer of a rank not lower than that of a Forester to lay any information before a Magistrate and to apply for summons, warrant, search-warrant, or such other legal process as he may by law issue against any person committing an offence and to conduct prosecution of such person upto final decision.

125. All Forest-Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

45 of 1860.

126. (1) No suit or criminal prosecution or other legal proceedings shall lie against any public servants for anything done by him in good faith under this Act.

(2) No court shall take cognizance of any offence alleged to have been committed by a Forest Officer in the discharge of his official duties except with the previous sanction of the authority competent to remove him from his office.

127. Except with the permission in writing of the State Government no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or becomes interested in any lease of any forest, whether in or outside the territories to which this Act extends.

CHAPTER XV

SUBSIDIARY RULES

128. The State Government may makes rule (a) to prescribe and limit the powers and duties of any Forest-Officer or Police Officer or Revenue Officer under this Act;

(b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;

(c) for the preservation, reproduction and disposal of trees and timber or forest-produce belonging to Government, but grown on lands belonging to private persons; and

(d) generally, to carry out the provisions of this Act.

129. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

130. All rules made by the State Government under this Act shall be published in the Official Gazette, and shall there-upon, so far as they are consistent with this Act, have effect as if enacted therein.

Rules
when to
have
force of
law.

CHAPTER XVI

MISCELLANEOUS

131. (1) Every person who exercise any right in a reserved or protected forest or village forest or who is permitted to take any forest-produce from or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest; and every person in any village contiguous to such forest who is employed by the Government or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest-Officer or Police Officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-Officer or Police-Officer or not,—

Persons
bound to
assist
Forest-
Officers
and
Police-
Officers.

(a) to extinguish any forest fire in such forest of which he has knowledge or information;

(b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,

and shall assist any Forest Officer or Police Officer demanding his aid;

(c) in preventing the commission in such forest of any forest-offence; and

(d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(2) Any person who, being bound to do so, without lawful ~~excuses~~ (the burden of proving which shall lie upon such person) fails—

(a) to furnish without unnecessary delay to the nearest Forest-Officer or Police Officer any information required by sub-section (1);

(b) to take steps as required by sub-section (1) to extinguish any forest fire in a reserved forest or protected forest;

(c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest; or

(d) to assist any Forest-Officer or Police-Officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender,

shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

Management of forests or the land, the joint-property of Government and other persons.

Power to Government to apply provisions of this Act to certain lands of Government of local authority.

Failure to perform service for which a share in produce of Government forest is enjoyed.

Recovery of money due to Government.

132. (1) If the State Government and any person be jointly interested in any forest or waste-land or in the whole or any part of the produce thereof, the State Government may either—

(a) undertake the management of such forest, waste-land or forest-produce, accounting to such person for his interest in the same; or

(b) issue such regulations for the management of the forest, waste-land or forest-produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

(2) When the State Government undertakes under clause (a) of sub-section (1) the management of any forest, land or forest-produce, it may, by notification in the Official Gazette, declare that any of the provisions contained in Chapters II and III shall apply to such forest, land or produce, and thereupon such provisions shall apply accordingly.

133. The State Government may, by notification in the Official Gazette, declare that any of the provisions of this Act shall apply to all or any lands which are the property of the State Government or a local authority and thereupon such provisions shall apply to such lands accordingly.

134. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the State Government that such service is no longer so performed:

Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the State Government.

135. (1) All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or under any contract relating to timber and other forest-produce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest-produce by auction or by invitation of tenders, issued by or under the authority of a Forest-Officer and all compensation awarded to the Government under this Act, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall also apply to all cases of recovery which

are either pending at the commencement of this Act or are initiated thereafter in respect of contracts entered into prior to such commencement, any judgement, decree or order of any court to the contrary notwithstanding.

136. (1) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

(2) If such amount is not paid when due, the Forest-Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

137. Wherever it appears to the State Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

1 of 1894.

Lien on
forest
produce
for such
money.Land re-
quired
under
this Act
to be
deemed
to be
needed
for a
public
purpose
under the
Land
Acquisi-
tion Act,
1894.

138. When any person, in accordance with any provision of this Act, or in compliance with any rule, or binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.

9 of 1972.

Recovery
of
Penalties
due
under
bond.

139. Nothing in this Act shall authorise a Government of any State to make any order or do anything in relation to any property not vested in that State or otherwise prejudice any rights of the Central Government or the Government of any other State without the consent of the Government concerned.

Saving
for
rights of
Central
Govern-
ment.

140. Every rule made by any State Government under this Act, shall be laid, as soon as may be after it is made, before the State Legislature.

Rules to
be laid
before
State
Legis-
lature.16 of 1927.
69 of 1980.

141. The Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980 are hereby repealed.

Enact-
ments
repeated.

STATEMENT OF OBJECTS AND REASONS

The Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980 do not fulfil the requirements regarding protection of forest and environment. They also do not protect the rights of those who depend on the forests for their survival.

The Bill is an attempt towards protection of environment as well as of the rights of tribals, etc. who depend on the forests.

NEW DELHI;

CHANDUBHAI DESHMUKH

August 6, 1990.

FINANCIAL MEMORANDUM

The Bill enables the State Governments to constitute forest courts and to appoint certain forest officers for carrying out the provisions of the Act. Of course, at present the State Governments have the requisite machinery to take care of forests. And even if some officers are to be appointed, the expenditure in respect of constitution of courts and appointment of officers will be met by the States from their respective consolidated funds.

The Bill, if enacted, therefore, does not involve any additional expenditure of either recurring or non-recurring nature, from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 36 gives power to State Governments to make rules for protected forests. Clause 78 gives power to make rules for regulating possession or prescribe penalties. Clause 128 gives additional power to rules and prescribe penalties. Clause 128 gives additional power to make rules. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 147 OF 1990

A Bill to repeal the Arms Act, 1959.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|---------------------------|
| 1. This Act may be called the Arms (Repeal) Act, 1990. | Short title. |
| 2. The Arms Act, 1959 is hereby repealed. | Repeal of Act 54 of 1959. |

STATEMENT OF OBJECTS AND REASONS

No sovereign country in the world, either developed or developing has such a restrictive law which can cripple its people, in the way, the Arms Act, 1959 has done to the people of India. No Government can take the responsibility for the protection of the whole of its population and its property, if the citizens are not able to defend themselves.

The restrictions on Indian citizens were initially imposed during British Rule, after the Sepoy revolt of 1857, by various Arms Acts, to keep the Indians under subjugation. This law was described by Mahatma Gandhi as the 'Black Law' of the British Rule.

Unfortunately, even after Independence, the re-enacted Arms Act, 1959, maintains the rigours of the old law, contrary to the objects of the Act. The operation of the Act has brought about an alarming situation in which the law abiding citizens, owing to the restrictions imposed under the Arms Act, 1959, are not in a position to keep arms for their self protection. On the other hand, secessionists, terrorists, mafia dons and criminals, who are in possession of unlicensed arms, are indulging in gruesome violence of all sorts. They are running their own courts and writs and are sometimes even dictating terms to Government.

It is impossible to weed out unlicensed arms in the possession of terrorists, secessionists and anti-social elements, which according to official assessment is ten times of the licensed arms. In fact the law imposing restrictions on fire arms have become redundant for anti-social elements.

It is, therefore, now imperative that the citizens be allowed to obtain and possess arms, necessary to defend themselves, the society and the country from the onslaught and terror of the terrorists, anti-social elements and criminals.

The Bill seeks to achieve the above objectives.

NEW DELHI;
July 25, 1990.

HUKUMDEO NARAYAN YADAV

K. C. RASTOGI,
Additional Secretary.